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odation to store medicines properly. They keep medicines outside. They get exposed to the sun and lose their vitality. In one case, a doctor administered the TB tablets supplied by this deport to a patient. Within three months the patient died because the medicines did not have the capacity to cure the patient. Nowadays the manufacture and sale of spurious, substandard and outdated medicines have become the order of the day. Another important complaint is, when the supply of a particular medicine is sought by Government institutions like para-military forces, defence and postal departments, this particular depot supplies lesser quantities. Also, they select items accordng to their whims and fancies ignoring the manual prescribed to them. According to that, there should be a revision of the list of medicines purchased by them every ten years. But they frequently change it every two years according to their wrims and fancies. When the employees went on strike, they exposed the functioning of this depot and all these matters came to light.

I urge upon the Health Ministry to review the functioning of the seven depots in the country which supply medicines to vital departments and institutions involving crores of rupees.

THE DEPUTY CHAIRMAN: Does this Karnal depot come under the Central Government.

SHRI V NARAYANASAMY: Yes, Madam. The Central Government supplies medicines to army personnel, Central Government hospitals, Postal Department, etc. They have to purchase from them only. This depot has been maintained in a very bad shape and crores of rupees are being wasted. I do not know about the functioning of other depots. I urge upon the Health Ministry to review the functioning of the seven centrally sponsored depots in the country and to see that the spurious, outdated and substandard medicines which have been kept there are completely removed and to keep a check on the medicines supplied. Thank you.

THE DIRECT TAX LAWS (AMENDMENT) BILL, 1989

THE DEPUTY CHAIRMAN: Now, the Direct Tax Laws (Amendment) Bill, 1989. Hon. Minister.

THE MINISTER OF STATE IN THE DEPARTMENT OF REVENUE IN THE MINISTRY OF FINANCE (SHRI AJIT PANJA): Madam, I beg to move:

> "That the Bill further to amend the Income-tax Act, 1961, the Wealth Tax Act, 1957, the Gift-tax Act, 1958 and the Direct Tax Laws (Amendment) Act, 1987, as passed by the Lok Sabha, be taken into consideration."

Madam, the Direct Tax Laws (Amendment) Act 1987 was passed by the Parliament during the winter session of 1987. The basic aim behind this enactment was to simplify and rationalise the direct tax laws and the procedures relating thereto. However, some of the provisions of that Act were vehemently opposed by the taxpayers. Responding quickly to the public sentiments the then Finance Minister gave an assurance in the Lok Sabha while presenting the Budget for the financial year 1988-89 that a further Amendment Bill would be brought to take care of the genuine grievances pointed out in the representations received from the tax-experts and also various organisations of trade and industry, associations of tax-payers, and industry, associations of tax-payers, the Direct Tax Laws Amendment Act 1987. The Finance Minister specifically mentioned four areas where amendments relating to the provisions introduced by the Direct Tax Laws (Amendment) Act, 1987 would be considered. These were:

(i) assessment of the income of the firms and partners;

(ii) assessment of religious and charitable institutions, trust as also scientific research institutions;

(iii) levy of additional tax; and

(iv) re-opening of assessment.

Madam, during the course of discussion on the Finance Bill, 1988, the then Finance Minister also made statements announcing Government's decision to give certain tax concessions and incentives. These *inter alia,* related to reintroduction of investment allowance as an option to the existing Investment Deposit Scheme, complete exemption in respect of export profits by taking these out of the purview of section 115J of the Income-Tax and introduction of certain measures for encouragement of tourism for augmenting foreign exchange resources.

After the Budget Session, certain tax concessions were agreed to for the promotion of offshore fund launched by the State Bank of India and for the non-repatriable NRI Bonds, and also in respect of the technical know-how provided to certain industries connected with the security of India.

Because of a large number of representations that were received relating to amendments made by the Direct Tax Laws (Amendment) Act, 1987, and the Government's anxiety to ensure that due consideration is given to the various difficulties that were brought to their notice, the proposals in regard to amendments mentioned above took time to be finalised in the form of the present Bill before the House.

The main criticism against the Direct Tax Laws (Amendment) Act, 1987, was that the Government did not give sufficient time for deliberation of the proposals and the Bill was rushed through the Parliament in a hurried manner. Therefore, this Bill was introduced in the last Winter Session of Parliament in order to give sufficient time for the discussions of the proposals contained in the Bill by the Members and by the taxpayers in general all over the country. A number of suggestions were received again from all sections of the taxpaying public. These were examined and some Government amendments were moved to the Bill originally introduced in the Lok Sabha, when it was taken up for consideration during the current Budget Session. I would refer to the important Government amendments a little later.

Thus, the present Bill before this House has been brought after detailed consideration of the suggestions received from the taxpaying public twice, once after the passing of the Direct Tax Laws (Amendment) Act, 1987 in the Winter Session of the year 1987 and again after the introduction of this Bill in the Lok Sabha during Winter Session of the year 1988. This shows the responsiveness of the Government and its readiness to redress the genuine grievances of the people.

I shall now deal with the main proposals in the Bill to remove the hardships caused by the provisions of the Direct Tax Laws (Amendment) Act, 1987. These are:

(1) The Bill proposes to withdraw the amendments made for introducing a new scheme of assessment of firms and partners and to restore the old provisions in this regard:

(2) It also proposes to restore the provisions relating to deductions on account of payment for scientific research, rural development programmes, and programmes of conservation of natural resources as also to withdraw the amendments introduced in the assessment of charitable or religious trusts/institutions or funds and to restore the old provisions in this regard. The Bill also proposes to restore the exemption in respect of the income of scientific research institutions under section 10(21)(.. sports association under section 10(23) and incomes of institutions of national importance under section 10(23C) (iv) & (v). However, by way of safeguard, it is proposed to provide that such exemptions will be available, with effect from 1-4-1990, subject to the fulfilment of certain conditions, namely, filing application for approval before the prescribed authority every three years, getting their accounts audited and spending the income for their objects or investing the un-spent income in specified assets.

(3) The provision regarding levy of additional tax on regular assessment is

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proposed to be withdrawn *vide* clause 95(J) of the Bill. However, in view of the new assessment procedure to be adopted from the assessment year 1989-90, which provides for acceptance of almost all returns, it is necessary to provide for some deterrance for delinquent taxpayers who do not care to discharge ly and attempt to reduce their their tax obligaions properliabilities by claiming allowances witch are not admissile or are negligent in the matter of filing o their returns and make mistakes in the same. Therefore, it is proposed to levy an additional tax automatically at the rate of 20 per cent on the extra tax arising because of the recomputation made by the Income-tax Department for correcting the returns. If the assessee is aggrieved against this levy, he can move a rectification application before the Assessing Officer and if the same is turned down, he can avail of the appellate remedies.

As a consequence of the withdrawal of levy of additional tax on regular assessment and in view of the new assessment procedure, the penalty provisions for concealment of income are proposed to be brought back.

Also, the provisions regarding advance ruling, which were linked to the levy of additional tax on regular assessment, are proposed to be withdrawn *vide* clause 44 and 95(p) of the Bill.

Fourthly, and lastly, in the case of re-opening of assessment, it is proposed to reintroduce the concept of "reason to believe".

Besides the above, amendments in some other provisions of the various Direct Taxes Acts, as amended by the Direct Tax Laws (Amendment) Act, 1987, have also been made to set at rest some anomalies and remove practical difficulties. All these amendments, I believe, will take care of the genuine hardships resulting from the provisions of the Direct Tax Laws Amendment) Act, 1987 as pointed out by the taxpayers.

Now, I would like to mention briefly the various concessions and liberalisations which are proposed in this Bill pursuant to the announcements made by the Government in earlir Sessions of Parliament from time to time and decisions arrived at subsequent to the Sessions. These are:

(1) It is proposed to re-introduce investment allowonce as an option to the existing Investment Deposit Scheme, in respect of ships and aircraft acquired or machinery Installed after 31st March, 1988. Through a Government amendment to the Bill introduced in the Lok Sabha, investment allowance is also proposed to be allowed in respect of these assets acquired or installed during the period 1-4-1987 to 31-3-1988 under certain circumstances.

This I shall explain a little later while dealing with importance Government amendments moved in the Lok Sabha. The investment allowance will be allowed at the rate of 20 per cent (instead of 25 per cent earlier) of the cost as reduced by amounts drawn from deposits under the Investment Deposit Scheme. It is also proposed that once benefit under the Investment Deposit Scheme is availed of in one assessment year, investment allowance shall not be allowed, not only for that year, but also for a block of four successive assessment years and *vice versa*.

(2) To provide encouragement to tourist for augmenting foreign exchange reserves, it is proposed to provide deduction of 50 per cent profit in foreign exchange derived from services rendered to foreign tourists by approved hotels or travel agents. The remaining 50 per cent of profit will also receive similar exemption if it is credited to reserve fund and utilised for the purpose of business of the assessees on the fulfilment of certain conditions.

(3) In order that the 100 per cent exemption on foreign exchange earnings provided to exporters, approved hotels, travel agents, etc. is not subjected to the levy of minimum tax on companies, it is proposed to exclude such profits from the tax liability under section 115J.

(4) The Bill also contains proposals for amendment to section 10 of the Income-tax Act allowing exemption of income from non-repatriable NRI Bonds arising to non-residents, as also to foreign companies which are giving technical services in approved projects connected with the security of India whether such services are rendered In India or abroad.

I would also like to draw the attention of the Hon'ble Members to some proposals of the Bill which have been very widely discussed all over the country. These are:—

(i) Amendment proposed in the definition of income to widen its scope, and

(ii) The incorporation of a new Schedule to the Wealth-tax Act regarding valuation of assets.

The amendment proposed in the definition of 'income' to include any special allowance or benefit specifically granted to the assessee to meet his expenses wholly, necessarily and exclusively for the performance of his duties, as also any allowance granted either to meet his personal expenses at the place where he performs his duties or compensate him for the increased cost of living, is clarificatory in nature and has been made with retrospective effect to as to make the intention of the Government clear in respect of the pending proceedings, either before the Assessing Officers or before the appellate authorities and courts regarding the nature of such allowances. I take this opportunity to assure the Hon'ble Members and through them to the public that the intention is not to tax anything that has not been taxed so far and that whatever allowance are tax-exempt now will continue to be so exempt. I wish to mention here that under the provisions of section 10(4) of the Income-tax Act, as amended by the Direct Tax Laws (Amendment) Act, 1987, two notifications have already been issued to exclude from the computation of total income, various allowances which have been included within the definition of 'income' as a result of the proposed amendment. This would remove the misgivings which have been expressed with regard to the proposed amendment in various quarters.

The proposal to incorporate the rules for valuation of assets in the Wealth-tax Act by way of a Schedule to the Act is with a view to providing certainty in the matter of assessment and reducing litigation on this account. As a result of the proposal, the concept of market value will be applicable to the valuation of assets, only if the assets cannot be valued as per the scheme provided in the Schedule. The method of valuation provided in the Schedule is based on the existing rules with certain amendments which have been proposed in order to simplify and rationalise the procedures.

Before concluding, I would like to briefly explain the following important Government amendments moved to the Bill in the Lok Sabha:—

(i) It has now been provided that scientific research associations and sports associations, who enjoy exemption in respect of their income, other than business income, under sections 10(21) and 10(23) of the Income-tax Act, will also

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get exemption in respect of business Income, if the business is incidental to the attainment of their objectives and separate books of accounts are maintained in respect of such business. Institutions of national importance which enjoy exemption under section 10(23C) (iv) & (v) already have a similar provision introduced by the Bill. Thus, the provisions in this respect have been made similar for all of these, whether covered under sections 10(21) or 10(23) or 10(23C)(iv) & (v).

(ii) It has also been provided that the Investment Allowance under section 32A of the Income-tax Act, which was withdrawn by a notification dated 12-6-1986 in respect of a ship or a new aircraft acquired or any new machinery or plant installed after 31-3-1987 and which can now be availed of in respect of these assets acquired after 31-3-1988, will be allowed also in respect of these assets acquired or installed during the intervening period, namely 1-4-1987 to 31-3-1988, if the assessee furnishes evidence to the satisfaction of the Assessing Officer that he had:—

(a) purchased such machinery or plant or had entered into a contract for acquiring such ship or aircraft or for purchasing such machinery or plant before 12-6-1986, or

(b) taken steps, before 12-6-1986, for the manufacture of such machinery or plant in an undertaking owned by him.

However, the claim for investment allowance at the rate of 20 per cent would only be allowed in the assessment year 1989-90.

(iii) The benefit of deduction under the new section 80-HHD proposed to be inserted in the Income-tax Act by the Bill, which is applicable to hotels approved by the prescribed authority and travel agents, who earn convertible foreign exchange, is further proposed to be extended to tour operators also, who are approved by the prescribed authority.

(iv) It is proposed to provide relief in the matter of valuation for wealth-tax purposes in respect of one residential house exclusively used for self-residence. Under the provisions of the second proviso to the new rule 3 of Schdule III proposed to be inserted in the Wealth-tax Act by the Bill, if any house is purchased or constructed after 31-3-1974, its value shall be taken as the cost of acquition or the cost of construction *plus* cost of improvement, if such cost is higher than the value arrived at by capitalising the rent. It has now been provided that this provision will not apply to one residential house exclusively used for self-residence even if the house is constructed after 31-3-1974 if the cost of acquisition or the cost of construction of such a house does not exceed Rs. 50 lakhs in the cities of Bombay, Calcutta, Delhi and Madras and Rs. 25 lakhs in other places. The effect will be that the value of such a house will be determined by the capitalisation method of the net maintainable rent according to rule 3 of Schedule III. The value so arrived at will normally be much less than the purchase price or the cost of construction of such a house at the prevailing high prices. This will give substantial relief to assessees who own only one residential house within the limits mentioned above exclusively used for their self-residence.

Certain other clauses of the Bill have also been amended. These amendments are purely in the nature of consequential amendments or of minor correctives.

The majority of the provisions of the Bill shall be operative with effect from 1-4-1989. In order to provide certainty about the provisions of the direct tax laws, it is necessary that the provisions of this Bill receive the assent of the President before 31st March, 1989. It is, therefore, not desirable to delay the enactment of this legislation any further.

Therefore, Madam, I trust that this Bill will get the unanimous support of this House.

The question was proposed.

THE DEPUTY CHAIRMAN: The discussion will continue after lunch. Now the House stands adjourned for lunch and will meet at 2.30 P.M;

The House then adjourned for lunch at thirty-one minutes past one of the clock.

The House reassembled after lunch at thirty-two minutes past two of the clock. THE DEPUTY CHAIRMAN in the Chair.

THE DIRECT TAX LAWS (AMENDMENT) BILL, 1989—Contd.

THE DEPUTY CHAIRMAN: Now the Direct Tax Laws (Amendment) Bill, 1989. Yes. Shri Kamal Morarka, you have 15 minutes.

SHRI KAMAL MORARKA (Rajathan) Only 15 minutes. That is not enough even to deal with the preamble.

THE DEPUTY CHAIRMAN: Three hours have been allotted to this Bill and fifteen minutes is your time.

SHRI KAMAL MORARKA: I crave your indulgence ....

THE DEPUTY CHAIRMAN: The time is allotted by the Business Advisory Committee.

DR. BAPU KALDATE (Maharashtra): You start off and she will give you more time.

SHRI KAMAL MORARKA: Madam, the Direct Tax Laws Bill, which is before the House is a milestone in a very dubious way. It is mile-stone in the annals of the legislative history of this country becaue for the first time we have a Bill which is meant to revoke large parts of a Bill which we have passed only one year ago. It is really surprising how the 1987 Bill came to the House and got passed. The Minister has already said in his speech that the main criticism of the Bill was that it was passed in a hurry in this House. I am not on that point. It is not a question of time frame, because. for instance, the Bill relating to the lowering of the voting age from 21 to 18 years we passed in a hurry, but it is not something which is wrong. We all agree with it. But when we come to a technical Bill like the Direct Tax Laws Bill, it is very very necessary that each clause of the Bill is carefully gone into. Unfortunately though a discussion paper was prepared by the Ministry itself, presented to Parliament, discussed all over the country in 1986 itself, the 1987 Bill was brought forward purportedly after a full and detailed discussion in the public. The Minister's speech and the statement of objects and reasons of the 1987 Bill also contained similar references like, after taking into account the various developments, after taking into account the public view of the concerned persons, we have brought forward this Bill. Again in the 1988 Bill, which the Minister has just now read out, in the statement of objects and Reasons once again we see what is written is that due to the quick responsiveness of the Government, we have taken into account the criticism of the public and we have come forward with this amendment. Logically, this does not preclude the Government from coming again after three months saying that because this Bill has been criticised in public we are amending it. My first point is to note for the future—it is a big experience—that passing an economic legislation in a hurry can lead to avoidable embarrassment. I want responsibility to be fixed by the Finance Minister as to who are the officials responsible for drafting 1987 Bill in a manner that can only invite widespread public criticism to the extent that both Houses of Parliament have to ...

SHRI JAGESH DESAI (Maharashtra): Why do you blame the officials?

DR. BAPU KALDATE: Let us blame the Minister: no problem.

SHRI JAGESH DESAI: It was discussed the whole day in this House.

DR. BAPU KALDATE: Shall we blame you? We don't know. Therefore we are asking. (*Interruptions*) We did not participate at all. We said you were passing it in a hurry and we left the House. We